

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

EDAG Engineering GmbH,

Petitioner,

v.

BYTON North America Corporation,

Respondent,

Case No. 3:21-cv-04736-EMC

**ORDER GRANTING MOTION TO  
CONFIRM ARBITRATION AWARD  
AND ENTER JUDGMENT; ~~PROPOSED~~  
JUDGMENT**

9 U.S.C. § 9

Petition Filed: June 23, 2021

**ORDER TO CONFIRM ARBITRATION AWARD**

The Motion to Confirm Arbitration Award and Enter Judgment filed by Petitioner EDAG Engineering GmbH, a corporation organized and existing under the laws of the Republic of Germany (“EDAG”), having come on for hearing before the Honorable Edward M. Chen, Judge of the United States District Court, Northern District of California, San Francisco Division hereof, on this 9th day of December, 2021; and

EDAG having petitioned the Court to confirm the “Final Arbitration Award” issued on June 2, 2021 (the “Final Award”) (JAMS Case Number 1100107291), adjudicating certain claims between EDAG and Respondent BYTON North America Corporation, a Delaware corporation (“BYTON”), *see* Petition to Confirm Arbitration Award and for Entry of Judgment, filed 6/23/21 (Docket No. 1); and

The Court having carefully reviewed and considered EDAG’s Notice of Motion and Motion, the papers supporting and opposing said Motion, including declarations and exhibits, the Final Award, EDAG’s Petition to Confirm Arbitration Award and for Entry of Judgment, BYTON’s Response to Petition of EDAG Engineering GmbH to Confirm Arbitration Award and for Entry of Judgment, filed 7/16/21 (Docket No. 13) (“Response”), and all papers and evidence on file in this matter, and good cause appearing therefor, the Court finds as follows, pursuant to 9 U.S.C. § 9:

The Court has original jurisdiction pursuant to 28 U.S.C. 1332 based on the diverse citizenship of the parties, and jurisdiction and authority to enter judgment under the Federal Arbitration Act, 9 U.S.C. §§ 1, *et seq.* (“FAA”).

BYTON is represented by counsel, who has appeared and filed pleadings in this matter. BYTON received service of the Final Award on June 3, 2021, and EDAG’s Petition to Confirm Arbitration Award and for Entry of Judgment on June 25, 2021.

On July 16, 2021, BYTON filed a Response advertising its intent to move to vacate or modify the Final Award, but has not filed any such motion.

The three (3) month period to file such a motion under 9 USC § 12 has elapsed. (So has the 100-day period set by the California Arbitration Act.)

1           The Honorable William J. Cahill, retired Judge of the Superior Court for the State of  
2 California properly issued the Final Award on June 2, 2021, and the Final Award meets all  
3 requirements of both the FAA and California law.

4           The Final Award is thorough and well-reasoned. It is not “completely irrational.” The  
5 Arbitrator did not “manifestly disregard” the law. Nor did the Arbitrator exceed the authority  
6 conferred on him by the parties’ agreement. Therefore, the Court defers to the Arbitrator’s  
7 determination of the award.

8           The Court confirms the Final Award and enters Judgment under 9 USC § 9 thereupon.  
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**JUDGMENT**

The arbitration award of the Hon. William J. Cahill (Ret.) of JAMS San Francisco issued on June 2, 2021, JAMS ref. no. 1100107291, known as the “Final Award,” is confirmed in all respects.

Based on the that Award, the parties’ arguments, and all papers and evidence on file in this matter, and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

The Final Award shall be, and is, the Judgment of this Court.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED:

Petitioner EDAG Engineering GmbH, a corporation organized and existing under the laws of the Republic of Germany, shall have and recover a money judgment to and against Respondent BYTON North America Corporation, a Delaware corporation, for the following amounts:

1. Principal damages in the amount of **\$28,635,392.42**. The Court converts the amount awarded to EDAG Engineering GmbH, a corporation organized and existing under the laws of the Republic of Germany, as principal damages in the Final Award, €23,446,649, to “dollars and cents” as required by California Code of Civil Procedure Section 577.5, using the exchange rate applicable on June 2, 2001, as the Arbitrator ordered.<sup>1</sup> BYTON North America Corporation, a Delaware corporation, shall pay EDAG Engineering GmbH, a corporation organized and existing under the laws of the Republic of Germany, principal damages in the amount of **\$28,635,392.42**, plus costs and interest as set forth below.

2. Interest accrued on the principal damages, totaling **\$1,498,454.21**. The Court confirms the Arbitrator’s award of prejudgment interest at the rate of 10% per annum, beginning on June 2, 2021. As of December 9, 2021, the interest accrued on the principal damages at that rate is \$1,498,454.21.

3. Costs in the amount of **\$89,442.85**. BYTON North America Corporation, a Delaware corporation, shall pay EDAG Engineering GmbH, a corporation organized and existing under the

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<sup>1</sup> Counsel for EDAG provided the sworn declaration of Evangeline A.Z. Burbidge supplying the applicable rate of conversion from Euros to United States dollars on June 2, 2001. The Court takes judicial notice of the conversion under Federal Rule of Evidence 201.

laws of the Republic of Germany, costs in the amount of **\$89,442.85**, as ordered by the Arbitrator.

4. Unpaid arbitration fees, advanced by EDAG, in the amount of \$8,400.00, as ordered by the Arbitrator on November 8, 2021.

THEREFORE,

EDAG Engineering GmbH, a corporation organized and existing under the laws of the Republic of Germany, shall have and recover a money judgment to and against BYTON North America Corporation, a Delaware corporation, for the total sum of **\$30,223,289.48**, plus postjudgment interest, as set forth below:

Principal damages (€23,446,649 stated in “dollars and cents” as required by Cal. Code Civ. Proc. § 577.5):	\$28,635,392.42
Prejudgment interest at 10% per annum (as of 12/9/21):	\$1,498,454.21
Costs:	\$89,442.85
Unpaid Arbitration Fees:	<u>\$8,400.00</u>
<b>TOTAL:</b>	<b>\$30,231,689.48</b>

5. Postjudgment interest shall accrue on that amount, calculated from the date of this Order to the date of payment to EDAG Engineering GmbH, a corporation organized and existing under the laws of the Republic of Germany, in accordance with 28 U.S.C. § 1961.

6. BYTON North America Corporation, a Delaware corporation, shall recover nothing on its claims for breach of contract and negligence.

7. No postjudgment stay shall occur pursuant to Federal Rule of Civil Procedure 62(a). Enforcement of the money judgment in EDAG’s favor shall commence immediately upon entry.

**IT IS SO ORDERED.**

Dated: December 13, 2021

  
 HON. EDWARD M. CHEN  
 Judge of the United States District Court